

Opening Statement
Congresswoman Maxine Waters
Subcommittee on Financial Institutions and Consumer Credit
June 21, 2006

Good Morning. Ladies and gentlemen. I want to thank Spencer Baucus the Chairman of the Subcommittee on Financial Institutions and Consumer Credit, and the Ranking Member, Bernard Sanders for holding today's hearing, "Bank Secrecy Act's Impact on Money Service Businesses (MSBs)."

As you know, there has been a proliferation in the number of Money Service Businesses in the United States in the last several years. If MSBs want to be viewed as safe and sound financial entities, they, in my view, should not be enticing consumers to write checks without money in the bank, should not be engaged in triple-digit interest rates for small loans, and should not be permitted to make loans via the Internet through electronic access to a consumer's bank account. The loaning of money secured by the borrower's personal check, due the next payday – might not technically be a money services business. MSBs include check cashers, money order sellers, and money transmitters. However, many MSBs do engage in payday loans. Loans should be prohibited based on future funds or electronic access to a person's bank account.

MSBs function as banks for many day laborers, wage earners and others seeking ease of access to banking services. Paychecks are cashed, money orders purchased to pay for fundamental services, utilities and other bills are paid, and remittances are sent to love ones abroad. You name it, and it is easy to identify niches in the financial market where MSBs have stepped in to fill a void. Of course, MSBs extract a price in terms of higher fees depending on the type of transaction, the frequency of transactions, as well as the information available about the person using the MSB.

The last time the Congress visited the Bank Secrecy Act in 2001, it was amended by Title II of the Patriot Act. Although many MSBs are regulated at the state level, there are implications for MSBs related to Federal law, since only 28 states and the District of Columbia have laws designed to regulate MSBs. Of course, these laws vary by state; rigorous in some and lax in others.

Federal law relies primarily on financial institutions' record keeping. The paper trail, or money trail if you will, is at the heart of the Bank Secrecy Act Amendments. The post office, casinos, banks, and yes MSBs fall under the scrutiny of Treasury and the Internal Revenue Service. MSBs must also comply with transaction thresholds of \$2000 for suspicious activity transactions, and must use Currency Transaction Reports where the transaction is greater than \$10,000. MSBs are required by law to maintain information on transactions of \$3000 or more.

MSBs came under law in the State of California in January 1, 2004 with the passage of the California Deferred Deposit Transaction Law, Senate bill 898. By December 2004, the California Department of Corporations had licensed 2,100 locations. As of December 2005 there were 2,445 licensed locations, an increase of nearly 15 percent. However, while MSBs have experienced tremendous growth in California, they are on the radar screen again because of the usurious rates, the military and pay day loans.

The California Legislature is considering AB 1965, which would prohibit discrimination against a person with respect to the terms of a loan, based on the person's membership in the military. The California Senate Banking Finance and Insurance Committee will consider legislation later today to provide protections for this often abused group of persons and their spouses.

Testimony before this Subcommittee should address concerns about the interaction between banks and MSBs, while taking into concern abuses. Since

last March, FinCEN and federal banking regulatory authorities have issued guidance related to banks and MSBs. Because there is a great deal of ambiguity about the guidance issued in conjunction with MSBs, I hope that the testimony will shed light on whether MSBs need greater regulation, and whether federal and state law is too vague. In March of 2006, FinCEN issued an Advance Notice of Proposed Rule Making and public comment is due in less than a month, on July 10, 2006. We anxiously await those comments.

As Members of this Subcommittee must continue to address concerns created by the overlapping and confusing laws related to MSBs and financial institutions.

Thank you Mr. Chairman.